

Remarks

In the Final Office Action dated June 18, 2009 and the Advisory Action dated September 4, 2009, it is noted that claims 1 and 3-14 are pending in this application and that claims 1 and 3-14 stand rejected under 35 U.S.C. §103.

Claim 1 has been amended to clarify an aspect of the present invention. This amendment is supported at least by claims 4 and 8. Claim 4 has been amended to eliminate a limitation based upon the present amendment to claim 1. Claim 7 has been amended as shown in the listing above to make an editorial change thereto. Claim 8 has been amended to clarify an aspect of the present invention, which amendment is supported at least by claim 4. Claim 2 was cancelled earlier in the prosecution. No new matter has been added.

Cited Art

The following references have been cited and applied in the present Office Action: U.S. Patent 6,526,506 to Lewis (hereinafter referenced as “*Lewis*”); and U.S. Patent Application Publication No. 2004/0081320 to Jordan et al. (hereinafter referenced as “*Jordan*”); U.S. Patent 7,293,289 to Loc et al. (hereinafter referenced as “*Loc*”); and U.S. Patent 6,118,869 to Kelem et al. (hereinafter referenced as “*Kelem*”).

Rejection of Claims 1, 7, 8, and 13 under 35 U.S.C. §103

Claims 1, 7, 8, and 13 stand rejected under 35 U.S.C. §103 as being unpatentable over Lewis in view of Jordan. This rejection is respectfully traversed.

Claims 1 and 8 are independent claims. Claim 1 is a method claim, whereas claim 8 is an apparatus claim and each claim must be interpreted upon its own merits. However, each of claims 1 and 8 recites substantially similar limitations that will be discussed below. It will be understood that, for the sake of brevity of this response, the remarks below are intended to pertain to all the independent claims that include such similar limitations without further repetition of the remarks.

Lewis fails to teach, show, or suggest “resetting the old encryption key to equal an encryption key being used,” as defined in amended claims 1 and 8. Lewis does not teach or suggest that, when a new ENCRYPT key is generated by the key distribution server, the former

(now old) ENCRYPT key is maintained for any subsequent use at either the access point 54 or the key distribution server 76, both interpreted in the Advisory Action as the “access point.” Lewis does not even appear to address the problem, which is addressed and solved by the present invention, namely, that a mobile terminal is still broadcasting its message encrypted with an old or former ENCRYPT key after the new ENCRYPT key is generated by key distribution server 76 and stored at each access point 54. Nowhere does Lewis teach, show, or suggest the existence of a place for maintaining the old encryption key that is being used by a station in communication with the access point, as defined in the claims. Moreover, nowhere does Lewis even remotely suggest that the old encryption key should be reset at all. Even if one were to analogize Lewis’s MASTER key to the claimed old encryption key, it would still not cure these defects because the MASTER key of Lewis is not reset, in contradistinction to the claimed limitation. The MASTER key of Lewis is defined as a constant of the network and it is not reset or changed (e.g., see Lewis, col. 6, line 59 – col. 7, line 7). For all these reasons, it is believed that Lewis fails to teach, show, or suggest all the limitations defined in claim 1.

Jordan fails to cure the defects discussed above in the teachings of Lewis. Also, the combination of Lewis and Jordan is inappropriate because Jordan does not teach or suggest any device that even remotely resembles an access point. It has been suggested in the Office Action that the messaging gateway 115 of Jordan is analogous to the access point. However, the analogy is inapt because the messaging gateway of Lewis is not in communication with any user. Instead, it is positioned remote from a user with a number of devices interposed along the communication path between the user and the gateway. Thus, the combination of Jordan and Lewis is not proper.

Furthermore, Jordan and Lewis lack any teaching, showing, or suggestion for “resetting the old encryption key to equal the current encryption key when decryption using the new encryption key is successful,” all as defined in claims 1 and 8. Lewis changes the ENCRYPT key to a newly generated ENCRYPT key regardless of whether a communication is decrypted properly. Additionally, if the MASTER key in Lewis is analogized to the old encryption key in the claims, then it is clear that Lewis does not change or replace or reset the MASTER key at all. It should also be noted that the Examiner has admitted that Lewis fails to teach this limitation in the Final Office Action on page 8.

With respect to this limitation, Jordan appears to maintain a so-called “base or initial password key” shown in Figure 10 for resynchronizing passwords. But there is no express or

implied teaching in Jordan that the “base or initial password key” is changed at any time to another value upon successful decryption of the incoming message. Jordan is completely silent on this matter. To infer any possible teaching for Jordan in this matter because of his silence would require the use of the teachings of Applicants, for example, which would be impermissible as hindsight.

The Examiner has interpreted the teachings of Jordan with respect to this limitation in amended claims 1 and 8 as saying “in other words the updated password key becomes the current password key and the current password key becomes the old password key.” *See the Office Action on page 14.* But this interpretation, whether correct or not, is contrary to what the amended claims state. The present claims call for “resetting the current encryption key to equal the newly generated encryption key ... resetting the old encryption key to equal the current encryption key when decryption using the new encryption key is successful.” In this way, both the current encryption key and the old encryption key have the same value, namely, the value of the new encryption key. Jordan and Lewis lack any teaching of the resetting that would cause this to occur.

For all these reasons, it is believed that the combination of Lewis and Jordan fails to teach, show, or suggest all the limitations defined in claim 1 and claim 8.

In light of all the remarks above, it is submitted that the limitations of independent claims 1 and 8 and the claims dependent thereon would not have been obvious to a person of ordinary skill in the art upon a reading of Lewis and Jordan, either separately or in combination. Thus, it is believed that claims 1, 7, 8, and 13 are allowable under 35 U.S.C. §103. Withdrawal of this rejection is respectfully requested.

Rejection of Claims 3, 4, 9, and 14 under 35 U.S.C. §103

Claims 3, 4, 9, and 14 stand rejected under 35 U.S.C. §103 as being unpatentable over Lewis and Jordan in view of Loc. This rejection is respectfully traversed.

Claims 3, 4, and 14 depend ultimately from independent base claim 1 and claim 9 depends from independent base claim 8. It should be understood that the cited dependent claims include all the limitations from their respective base independent claims and also include additional limitations over those presented in the base claims.

The patentability of the base independent claims has already been discussed above and will be understood to be incorporated herein without further repetition, except to repeat that the combination of Lewis and Jordan fails to teach, show, or suggest all the elements of the base independent claims. Loc was introduced because it was stated that the combination of Lewis and Jordan failed to disclose the operation of an encryption failure counter, whether incrementing or resetting to zero. Since there is no additional showing in Loc to cure the deficiencies in the teachings of Lewis and Jordan as described above, it is submitted that the combination of Lewis, Jordan, and Loc fails to disclose or suggest all of the elements of claims 3, 4, 9, and 14.

In light of the remarks above and because of the dependence on the independent base claims discussed above, it is believed that the elements of dependent claims 3, 4, 9, and 14 would not have been obvious to a person of ordinary skill in the art upon a reading of Jordan, Lewis, and Loc, either separately or in combination. Thus, it is submitted that claims 3, 4, 9, and 14 are allowable under 35 U.S.C. §103. Withdrawal of this rejection is respectfully requested.

Rejection of Claims 5, 6, 10, 11, and 12 under 35 U.S.C. §103

Claims 5, 6, 10, 11, and 12 stand rejected under 35 U.S.C. §103 as being unpatentable over Lewis and Jordan in view of Kelem. This rejection is respectfully traversed.

Claims 5 and 6 depend ultimately from independent base claim 1 and claim 10, 11, and 12 depend from independent base claim 8. It should be understood that the cited dependent claims include all the limitations from their respective base independent claims and also include additional limitations over those presented in the base claims.

The patentability of the base independent claims has already been discussed above and will be understood to be incorporated herein without further repetition, except to repeat that the combination of Lewis and Jordan fails to teach, show, or suggest all the elements of the base independent claims. Kelem was introduced because it was stated that the combination of Lewis and Jordan failed to disclose setting the encryption key to a null value. Since there is no additional showing that Kelem cures the deficiencies of Lewis and Jordan as described above, it is submitted that the combination of Lewis, Jordan, and Kelem fails to disclose or suggest all of the elements of claims 5, 6, 10, 11, and 12.

In light of the remarks above and because of the dependence on the independent base claims discussed above, it is believed that the elements of dependent claims 5, 6, 10, 11, and 12 would not have been obvious to a person of ordinary skill in the art upon a reading of Jordan, Lewis, and Kelem, either separately or in combination. Thus, it is submitted that claims 5, 6, 10, 11, and 12 are allowable under 35 U.S.C. §103. Withdrawal of this rejection is respectfully requested.

Conclusion

In view of the foregoing, it is respectfully submitted that all the claims pending in this patent application are in condition for allowance. Entry of this amendment, reconsideration, and allowance of all the claims are respectfully solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner contact the Applicants' attorney, so that a mutually convenient date and time for a telephonic interview may be scheduled for resolving such issues as expeditiously as possible.

Respectfully submitted,

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